

§ 6.20

258, 96 Stat. 1051, as amended (31 U.S.C. 9701), and secs. 103 and 404, Pub. L. 103-465, 108 Stat. 4819 (19 U.S.C. 3513 and 3601).

SOURCE: 61 FR 53007, Oct. 9, 1996, unless otherwise noted.

§ 6.20 Introduction.

(a) Presidential Proclamation 6763 of December 23, 1994, modified the Harmonized Tariff Schedule of the United States affecting the import regime for certain articles of dairy products. The Proclamation terminated quantitative restrictions that had been imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624); proclaimed tariff-rate quotas for such articles pursuant to Public Law 103-465; and specified which of such articles may be entered only by or for the account of a person to whom a license has been issued by the Secretary of Agriculture.

(b) Effective January 1, 1995, the prior regime of absolute quotas for certain dairy products was replaced by a system of tariff-rate quotas. The articles subject to licensing under the tariff-rate quotas are listed in Appendices 1, 2, and 3 to be published annually in a notice in the FEDERAL REGISTER. Licenses permit the holder to import specified quantities of the subject articles into the United States at the applicable in-quota rate of duty. If an importer has no license for an article subject to licensing, such importer will, with certain exceptions, be required to pay the applicable over-quota rate of duty.

(c) The Secretary of Agriculture has determined that this subpart will, to the fullest extent practicable, result in fair and equitable allocation of the right to import articles subject to such tariff-rate quotas. The subpart will also maximize utilization of the tariff-rate quotas for such articles, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned.

[80 FR 44254, July 27, 2015]

§ 6.21 Definitions.

As used in this subpart and the appendices thereto, the following terms are defined as follows:

7 CFR Subtitle A (1-1-16 Edition)

Article. One of the products listed in Appendices 1, 2, or 3, which are the same as those described in Additional U.S. Notes 6, 7, 8, 12, 14, 16-23 and 25 to Chapter 4 of the Harmonized Tariff Schedule.

Article other than cheese or cheese products. Any article that is a dairy product, but not a cheese or cheese product.

CBP. United States Customs and Border Protection, U.S. Department of Homeland Security.

Cheese or cheese products. Articles in headings 0406, 1901.90.34, and 1901.90.36 of the Harmonized Tariff Schedule.

Commercial entry. Any entry except those made by or for the account of the United States Government or for a foreign government, for the personal use of the importer or for sampling, taking orders, research, or the testing of equipment.

Country. Country of origin as determined in accordance with CBP rules and regulations, except that “EC”, and “Other countries” shall each be treated as a country.

DAIRIES. The “Dairy Accelerated Importer Retrieval and Information Exchange System”. The web-based user interface system which persons must utilize to apply for and manage licenses, and through which the Licensing Authority will communicate all program notices.

Dairy products. Articles in headings 0401 through 0406, margarine cheese listed under headings 1901.90.34 and 1901.90.36, ice cream listed under heading 2105, and casein listed under heading 3501 of the Harmonized Tariff Schedule.

Department. The United States Department of Agriculture.

EC. Those countries listed in Additional U.S. Note 2 to Chapter 4 of the Harmonized Tariff Schedule.

Enter or Entry. To make or making entry for consumption, or withdrawal from warehouse for consumption in accordance with CBP regulations and procedures.

Harmonized Tariff Schedule or HTS. The Harmonized Tariff Schedule of the United States.

Licensee. A person to whom a license has been issued under this subpart.

Licensing Authority. Any officer or employee of the U.S. Department of Agriculture designated to act in this position by the Director of the Division charged with managing the Dairy Tariff-Rate Quota Import Licensing System.

Other countries. Countries not listed by name as having separate tariff-rate quota allocations for an article.

Person. An individual, firm, corporation, partnership, association, trust, estate or other legal entity.

Process or processing. Any additional preparation of a dairy product, such as melting, grating, shredding, cutting and wrapping, or blending with any additional ingredient.

Quota year. The 12-month period beginning on January 1 of a given year.

Tariff-rate quota amount or TRQ amount. The amount of an article subject to the applicable in-quota rate of duty established under a tariff-rate quota.

United States. The customs territory of the United States, which is limited to the 50 states, the District of Columbia, and Puerto Rico.

[80 FR 44254, July 27, 2015]

§ 6.22 Requirement for a license.

A person who seeks to enter, or cause to be entered an article as a commercial entry, shall obtain a license, in accordance with this subpart.

[80 FR 44254, July 27, 2015]

§ 6.23 Eligibility to apply for a license.

(a) *In general.* To apply for any license, a person shall have:

(1) A business office, and be doing business, in the United States, and

(2) An agent in the United States for service of process, and

(3) An email address to be used for correspondence regarding licensing activities and reports.

The licensee is responsible to continuously maintain a valid email address in DAIRIES for use in communicating with the Licensing Authority.

(b) *Eligibility for 2016 and subsequent quota years.* (1) Historical licenses (Appendix 1). A person issued a historical license for an article for the current quota year may apply for a historical license (Appendix 1) for the next quota

year for the same article from the same country, if such person was, during the 12-month period ending August 31 prior to the quota year, either:

(i) Where the article is cheese or cheese product,

(A) The owner of and importer of record for at least three separate commercial entries of cheese or cheese products totaling not less than 57,000 kilograms net weight, each of the three entries not less than 2,000 kilograms net weight;

(B) The owner of and importer of record for at least eight separate commercial entries of cheese or cheese products, from at least eight separate shipments, totaling not less than 19,000 kilograms net weight, each of the eight entries not less than 450 kilograms net weight, with a minimum of two entries in each of at least three quarters during that period; or

(C) The owner or operator of a plant listed in Section II or listed in Section I as a processor of cheese of the most current issue of "Dairy Plants Surveyed and Approved for USDA Grading Service" and had processed or packaged at least 450,000 kilograms of cheese or cheese products in its own plant in the United States; or

(ii) Where the article is not cheese or cheese product,

(A) The owner of and importer of record for at least three separate commercial entries of dairy products totaling not less than 57,000 kilograms net weight, each of the three entries not less than 2,000 kilograms net weight;

(B) The owner of and importer of record for at least eight separate commercial entries of dairy products, from at least eight separate shipments, totaling not less than 19,000 kilograms net weight, each of the eight entries not less than 450 kilograms net weight, with a minimum of two entries in each of at least three quarters during that period;

(C) The owner or operator of a plant listed in the most current issue of "Dairy Plants Surveyed and Approved for USDA Grading Service" and had manufactured, processed or packaged at least 450,000 kilograms of dairy products in its own plant in the United States; or